

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

WINTER ENTERPRISES, LLC	)	Case No.
Dbafun Factory	)	
	)	
Plaintiff	)	JUDGE
	)	
v.	)	NOTICE OF REMOVAL FROM STATE
	)	COURT
WEST BEND MUTUAL INSURANCE CO.	)	
	)	Removed from the Hamilton County Court of
Defendant	)	Common Pleas, State Docket no. A1702343

**DEFENDANT’S NOTICE OF REMOVAL**

Defendant West Bend Mutual Insurance Co. hereby moves Case No. A1702343 from the Court of Common Pleas, Hamilton County, Ohio to the United States District Court for the Southern District of Ohio, Western Division, pursuant to 28 U.S.C. §1332, §1441 and §1446, and as grounds for its removal states as follows:

**STATEMENT OF THE CASE**

1. On April 27, 2017 Plaintiff (“Plaintiff”) filed a Complaint against Defendant, Case No. A1702343 in the Hamilton County Court of Common Pleas.
2. Defendant was served with a Summons in this action on or about May 8, 2017.

**DIVERSITY JURISDICTION UNDER 28 U.S.C. §1332(a)**

3. This Court has jurisdiction over this matter under 28 U.S.C. §1332(a) because there is a complete diversity of citizenship between Plaintiff and Defendant, and more than \$75,000.00 exclusive of interest and costs, is at stake.
4. As Plaintiff alleges in the State Court Action, Plaintiff is an Ohio Limited Liability Company, engaged in business in the State of Ohio, Hamilton County, with its business being at 1631 Sherman Avenue, Cincinnati, Ohio 45212.
5. As Plaintiff alleges in the State Court Action, Defendant is a foreign corporation, doing business in the State of Ohio, namely providing commercial insurance to Ohio businesses, such as the Plaintiff.
6. The amount in controversy by virtue of Plaintiff's claims in this lawsuit exceeds \$75,000.00. Plaintiff's prayer for relief seeks damages in excess of \$25,000.00, together with punitive damages. In the event Plaintiff prevails on its breach of contract claim and claims for bad faith, plaintiff's actual damages and potential punitive damages, which Plaintiff has alleged, will exceed \$75,000.
7. Additionally, Plaintiff seeks over \$1,000,000.00 in alleged underlying coverage related to the policy of insurance at issue.<sup>1</sup>
8. This Court has jurisdiction over this action pursuant to 28 USC § 1332(a) because there is complete diversity of citizenship and the amount in controversy exceeds \$75,000.00.

**ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED**

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<sup>1</sup> See Plaintiff's sworn Proof of Loss, attached hereto as Appendix A.

9. Pursuant to 28 U.S.C. §1446(a), a true and accurate copy of all process, pleadings, and orders served upon Defendant in the State Court Action are being filed with this notice of Removal
10. This notice of Removal has been filed within 30 days of the date that Defendant was served with the Summons and the Complaint in the State Court Action. Removal is therefore timely in accordance with 28 U.S.C. §1446(b)(1).
11. Venue is proper in this Court pursuant to 28 U.S.C. §§1441(a) and 1446(a) because the United State District Court for the Southern District of Ohio, Eastern Division is the judicial district embracing the Court of Common Pleas for Hamilton County, where the State Court Action was originally filed.
12. Defendant is filing this Notice of Removal, pursuant to 28 U.S.C. §1446(b)(2)(A).

### **CONCLUSION**

WHEREFORE, Defendant respectfully requests that this civil action be, and is hereby, removed to the United States District Court for the Southern District of Ohio, Eastern Division, that this Court assume jurisdiction of the civil action, and that this Court enter such other and further orders as may be necessary to accomplish the requested removal.

Respectfully submitted,

/s/ Thomas J. Connick

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*Attorney for Defendant*

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**CERTIFICATE OF SERVICE**

A copy of the foregoing was mailed this 25th day of May 2017 via the court's electronic filing system to all parties of record.

/s/ Thomas J. Connick  
THOMAS J. CONNICK (0070527)  
*Attorney for Defendant*